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**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS**  
**OF ENGLAND AND WALES**  
**INSOLVENCY AND COMPANIES LIST**  
**CHANCERY DIVISION**

Royal Courts of Justice  
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**Before:**

**THE HONOURABLE MR JUSTICE ZACAROLI**

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**Between:**

**IN THE MATTER OF ABBEY LIFE  
ASSURANCE COMPANY LIMITED**

**-and-**

**IN THE MATTER OF PHOENIX LIFE  
LIMITED**

**-and-**

**IN THE MATTER OF THE FINANCIAL  
SERVICES AND MARKETS ACT 2000**

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**MARTIN MOORE QC** (instructed by **Messrs Clyde & Co LLP**) for the **Claimants**  
**MR RITCHIE, MR McCARTHY AND MS ETSIBAH** appeared in person  
as interested Policyholders

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**JUDGMENT**

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**Mr Justice Zacaroli:**

1. This is an application for sanction of an insurance business transfer scheme under Section 111 of the Financial Services and Markets Act 2000 in respect of the entire business of Abbey Life Assurance Company Limited (Abbey Life). The business is to be transferred to Phoenix Life Limited ('Phoenix'). Phoenix is a specialist in the management and acquisition of closed life and pension funds. Abbey Life has been closed to new consumer business since 2000. Abbey Life is already a member of the Phoenix Group, having been acquired by the Phoenix Group on 30 December 2016. Its acquisition at that date had no impact on the rights of any of the policies written by Abbey Life.
2. The purpose of the scheme is to rationalise the corporate structure so as to generate capital and operational efficiencies by reducing the number of authorised insurers in the Phoenix Group. Abbey Life has just under £7.5 billion of assets under management, and approximately 719,000 policies. As of 31 March 2018, Abbey Life had sold the solvency coverage ratio ('SCR') requirement of 1284%, but this has reduced to 292%, following payments of dividends in 2018. It has a non-profit fund, two small with-profits funds, and a shareholder's fund, but one of the with-profits funds has only 89 policyholders and is in the final stages of run off with reserves of just over £1m. The other has 1,220 policies in force.
3. Phoenix has approximately £47 billion worth of assets under management, and approximately 3.5 million policies as at 31 December 2017. As at 31 March 2018, Phoenix's SCR cover was 145%. Had the scheme been effected in June 2018, this would have risen to 150%. This is in excess of the capital buffer set

out in Phoenix's own capital policy. Under the scheme, all of the policies of Abbey Life's non-profit fund will be transferred to non-profit funds in Phoenix. The assets and liabilities of Abbey Life's with-profits funds will be converted to non-profit and transferred to the non-profit fund in Phoenix. The assets and liabilities of Abbey Life's shareholder fund will be transferred to Phoenix's shareholder fund.

4. Mr Moore QC, appearing as counsel for the applicants, points out that there are four layers of protection provided in a scheme such as this for the protection of policyholders. The first is the involvement of the Financial Conduct Authority ('FCA') and the Prudential Regulatory Authority ('PRA'), whose role I will describe in more detail later, but in essence, it encompasses their statutory duties to protect the interests of policyholders both so far as conduct and financial soundness are concerned.
5. Secondly, there is a requirement for an Independent Expert to report on the scheme. In this case I have the benefit of a report from Mr Tim Roff, of Grant Thornton LLP, who is a highly experienced expert. He is required to consider the impact of the scheme on various stakeholders, in this case the policyholders, both those transferring and those not. In so doing, he acts independently of the parties and provides his expert opinion to the Court.
6. The third layer of protection is communication to the policyholders. There has been a large, extensive programme of communications and advertising in this case. Its purpose is to inform the policyholders what is happening and to give effect to the statutory right of anyone who may be adversely affected to make representations.

7. The fourth layer of protection is the Court itself. The Court is required to sanction, or withhold sanction from the scheme as it sees fit, exercising a real discretion.
8. As Lindsay J made clear in the case of *Re Norwich Union Linked Life Assurance Limited [2004] EWHC 2802 (Ch)* at §17, it is appropriate to sanction a scheme whose purpose is corporate rationalisation provided that there is no material disadvantage to any policyholder. He said this at paragraph 17:

“As between the policyholders and the Claimant’s Companies’ Shareholders, if, as the Independent Expert reports, the intended benefits looked for to be achieved by way of the Scheme – a simplified capital structure and an improved capital – raising ability in the Claimant companies – are conferred by the Scheme without material disadvantage to any policyholder, it would be hard to describe the Scheme as unfair even if totally discounting the advantages which the Scheme, by way of the improvement as to the capital structure, may ultimately confer upon the policyholders ...”

9. In addition to various procedural requirements that must be satisfied, the Court’s role on an application for sanction of a scheme is set out Section 111(3) of the Act, and is to “consider that, in all the circumstances of the case, it is appropriate to sanction the scheme’. In *Re London Life Association Ltd* (unreported) 21 February 1989, Hoffmann J said this:

“In the end, the question is whether the scheme as a whole is fair as between the interests of the different classes of persons affected. But the court does not have to be satisfied that no better scheme could have been devised ... I am therefore not concerned with whether, by further negotiation, the scheme might be improved, but with whether, taken as a whole, the scheme before the court is unfair to any person or class of persons affected.

In providing the court with material upon which to decide this question, the Act assigns important roles to the independent

actuary and the Secretary of State. A report from the former is expressly required and the latter is given a right to be heard on the petition.”

10. In *Re Axa Equity & Law Life Assurance Society plc and Axa Sun Life plc* [2001] 1 All ER (Comm) 1010, at pages 1011-1012, Evans-Lombe J set out eight principles which govern the approach of the Court. These principles are as follows:

“(1) The 1982 Act confers an absolute discretion on the court whether or not to sanction a scheme but this is a discretion which must be exercised by giving due recognition to the commercial judgment entrusted by the company’s constitution to its directors.

(2) The court is concerned whether a policyholder, employee or other interested person or any group of them will be adversely affected by the scheme.

(3) This is primarily a matter of actuarial judgment involving a comparison of the security and reasonable expectations of policyholders without the scheme with what would be the result if the scheme were implemented. For the purpose of this comparison the 1982 Act assigns an important role to the independent actuary to whose report the court will give close attention.

(4) The FSA by reason of its regulatory powers can also be expected to have the necessary material and expertise to express an informed opinion on whether policyholders are likely to be adversely affected. Again the court will pay close attention to any views expressed by the FSA.

(5) That individual policyholders or groups of policyholders may be adversely affected does not mean that the scheme has to be rejected by the court. The fundamental question is whether the scheme as a whole is fair as between the interests of the different classes of persons affected.

(6) It is not the function of the court to produce what, in its view, is the best possible scheme. As between different

schemes, all of which the court may deem fair, it is the company's directors' choice which to pursue.

(7) Under the same principle the details of the scheme are not a matter for the court provided that the scheme as a whole is found to be fair. Thus the court will not amend the scheme because it thinks that individual provisions could be improved upon.

(8) It seems to me to follow from the above and in particular paras (2), (3) and (5) that the court, in arriving at its conclusion, should first determine what the contractual rights and reasonable expectations of policyholders were before the scheme was promulgated and then compare those with the likely result on the rights and expectations of policyholders if the scheme is put into effect.”

11. Finally, the Court does not act as rubber stamp on cases such as this (as has been emphasised by numerous judges) but does exercise a real discretion guided, but not bound by, the terms of the Independent Expert's report on the central issues.
12. I will follow the order of the Independent Expert's report in considering the impact of the Scheme on policyholders. First, I shall consider the impact of the Scheme on contractual rights of the policyholders, dealing first with the non-profit policies. The Scheme does not amend in any way the non-profit policies, but one effect of the transfer will be that discretion which is currently exercised by Abbey Life in relation to things such as charges on surrender, policy conversion and product reviews, will be exercised by the management of Phoenix. Since Abbey Life is already within the Phoenix group, and a group-wide discretion policy applies to both companies, there will be no substantive change. For unit-linked policies, the policyholders' benefit expectations depend upon the underlying performance of the funds. New unit-linked funds will be created in Phoenix but will have the same asset pool and

charges, and will be priced on the same basis as the equivalent funds in Abbey Life.

13. Certain additional powers will be granted by the Scheme for unit-linked policies permitting Phoenix to close, divide, wind up, and modify the investment objectives of the funds. But these will not override the terms and conditions of any policy, and they reflect standard market practice. The Expert has concluded, in light of this, that the Scheme will not materially impact on the benefits and expectations, and will not affect the contractual rights of the transferring non-profit and unit-linked Policyholders because, firstly the terms and conditions do not change, secondly there is no change to the way the discretion will be applied, and thirdly, the additional powers granted by the Scheme for unit-linked policies reflect good market practice.
14. I turn to the effect of the Scheme on with-profit policies. As I mentioned, with-profit policies will be converted to non-profit policies. In *Re Pearl Assurance (Unit Linked Pensions) Limited* [2006] EWHC 2291 (Ch), Briggs J, at paragraphs 12 and 13, said the following:

“12. After initial hesitation, for which see the judgment of Rattee J. in *Re: Lincoln Assurance Ltd* (unreported) 6<sup>th</sup> December 1996, the Judges of the Chancery Division have reached a reasonable degree of unanimity that Part VII of the Act does permit the court to bring about a variation of policyholders' contractual rights which goes beyond the mere substitution of the transferee of the relevant business for the transferor as the obligor under the relevant policy: see in particular *Re: Hill Samuel Life Assurance Ltd* (unreported) 10<sup>th</sup> July 1995, per Knox J.; *Re: Consolidated Life Assurance Co.* (unreported) 11<sup>th</sup> December 1996, per Harman J.; *Re: Hill Samuel Life Assurance Ltd* [1998] 3 All ER 176, per Rimer J., in particular page 178(d) and *Re: Norwich Union Linked Life Assurance Ltd* [2004] EWHC 2802 (Ch), [2005] BCC 586, per Lindsay J. at paragraphs 9 to 13 of his judgment.



13. The rationale for so concluding has varied over time, but I am not concerned with its detail. It is sufficient for present purposes that I have jurisdiction to sanction a scheme which would have the consequence of effecting such changes to policyholders' contractual rights. The question for me is however whether I should as a matter of discretion do so.”

15. One of the matters referred to in that paragraph is the case of *Re Hill Samuel Life Assurance Ltd* [1998] 3 All ER 176 per Rimer J, at pages 178(c)-(f), where the judge said this:

“I have had some representations from Mr Hildyard as to whether those provisions can be regarded as incidental, consequential and supplementary matters necessary to secure that the Scheme should be fully and effectively carried out within paragraph 5 of 1(e) ... [the equivalent to section 112(1)(d) of the Financial Services and Markets Act] ... and I have come to the conclusion that they are. The whole essence of the scheme is that these funds are to be transferred across to Abbey Life and integrated with Abbey Life policies, it is an integral part of the scheme that the funds so transferred should be subject to the modifications which I have outlined and, but for those modifications, the scheme would be a quite different one.”

16. Looking first at the Hill Samuel PB Fund, one of the with-profits funds, this fund has a sunset clause which allows conversion of policies to non-profit when the number of policies falls below 1,000. That is anticipated to happen in 2019. The current rights of policyholders include a right to an annual bonus which is set as a matter of discretion by Abbey Life. This has, in fact, been set at 0.5% for many years. The Scheme will fix and guarantee that annual bonus at the same rate. The sunset clause means that the policyholders would lose that benefit anyway next year. Under their current rights policyholders also have the right to a final bonus. The effect of the Scheme, again given the operation of the sunset clause, is merely to bring forward by a few months the operation of the same rights in this respect that they would have in any case.

17. The other fund is the Abbey Life PB Fund. Here, there are only 89 policies. The existing rights include an annual bonus and a final bonus. The annual bonus is discretionary in amount, but in reality is a product of what is left after calculation of expenses and reserves. The final bonus is calculated for each policyholder to give that policyholder a pro-rata proportion of the anticipated value of the fund at termination. Under the new rights granted by the Scheme, the current level of annual bonus will be fixed and guaranteed. So far as the final bonus is concerned, what will happen is simply a bringing forward of the pro-rata dividing up among the policyholders, taking its value as the transfer date as opposed to the termination date. The reason for converting these policies is that when a with-profit fund becomes so small, the cost of administering it becomes disproportionate. In addition, the fewer the number of policies, the fund treats disproportionately the last man standing in a way which was never intended. Where a policyholder cannot be traced, then the release of assets allocated to those policies under the Scheme would be a source of potential future surplus. It is proposed, that where it is expected that the claim is unlikely to be made, then 50% of the surplus arising from those policies will be distributed to all policies in force at the transfer date in the form of a special bonus. The remaining 50% will be distributed to the shareholders. The logic of this is that the shareholders will have the responsibility for future claims of untraced policies and should receive some further compensation for that.
18. The Expert has determined that the treatment of with-profit policies is fair, and the Scheme has no material impact on the benefit expectations and contractual rights of the transferring with-profit policyholders. He has based that

conclusion on factors including his assessment that the conversion provides more certainty over death and maturity benefits. He also notes the method used to distribute the surplus in the fund is in line with past practice and market practice. I consider his conclusions to be fair and reasonable.

19. The Expert then turns to deal with the impact on existing policyholders of Phoenix. There is to be no change to any terms and conditions of the current policies within Phoenix, and there will be no impact on the with-profit funds of Phoenix. Policy administration and governance arrangements will remain the same.
20. The next major topic of consideration by the Expert is the security of policyholder benefits. So far as transferring policyholders are concerned, the capital requirement of Phoenix will be lower than that of Abbey Life. This fact alone, however, is not a ground for refusing to sanction the Scheme, see in this regard *Royal Sun Alliance Insurance plc* [2008] EWHC 3436 (Ch) at paragraph 11, where David Richards J said the following:

“Accordingly, in approaching this application I shall be concerned to see whether there is any material adverse effect on the position of policyholders in any of the three groups to which I have referred. The word "material" is important. The court is not concerned to address theoretical risks. It might be said that a transfer of business from a very large company to a large company involved a reduction in the cover available to the transferring policyholders, but assuming that the transferee is in a financially strong position it matters not that the level of cover in the transferee is less than that in the transferor. What the court is concerned to address is the prospect of real, as opposed to fanciful, risks to the position of policyholders.”

21. Mr Moore points out that the baseline test for SCR cover is 100%. As a matter of generality (i.e. not just in this case) this is intended to equate to a 99.5% improbability of a company's failure. If there is 110% over SCR then

the improbability of failure is 99.8%, whereas if the percentage over SCR is 125% that gives a 99.9% improbability of failure. The point is that what looks like big reduction in SCR ratio would produce a very minor increase in the probability of failure. Any company in this area has both a target level and a required level of SCR cover ratio. These are generally matters confidential to the company concerned. What we know in this case, however, is that 145% is within the company's target for SCR cover.

22. The Expert has determined, having considered the matter in detail, that the reduction in SCR cover would not have a material effect on the security and benefits of the transferring shareholders. He reached that conclusion because amongst other things, Phoenix would continue to meet its own regulatory capital requirements, and both companies have a capital ratio above the target capital level. The higher ratio of Abbey Life at the moment is a temporary figure which would normally be distributed to the shareholders so as to operate at a level close to target. The Financial Services Compensation Scheme will continue to provide protection to policyholders post-transfer, and capital policies and risk management are the same with both companies. I add that where a company has SCR cover in excess of the regulatory requirement, it is free at any time to dividend that excess out to its shareholders.
23. So far as the current policyholders of Phoenix are concerned, the SCR cover of Phoenix will in fact increase post-transfer, and the Scheme will have no negative impact on the SCR cover of Phoenix. For that reason, and because the Scheme will have no effect on capital policies, risk management

framework or FSCS protection, the Expert has concluded that there is no negative impact of the Scheme on existing policyholders of Phoenix.

24. The Expert then went on to consider other potential impacts of the Scheme. He noted that there will be no change in governance, both companies' boards having the same composition. There will be no change in service standards, and the policy administration is, and will continue to be, outsourced in the same terms. Since both the transferor and the transferee are incorporated in the UK, there will be no change in conduct regulation, in the compensation rights of the policyholders, or the rights of the policyholders to access the Financial Ombudsman Service.
25. Finally, the Expert has considered the impact on re-insurers. The existing external reinsurance contracts covering the transferring policies will all be transferred to Phoenix with no change to any terms and conditions. The Expert is accordingly satisfied that there will be no negative impact on re-insurers.
26. On the basis of the above, the Expert has concluded that in his expert opinion the Scheme will not have a negative adverse impact on any of the policyholders, whether those transferring or those already in the Phoenix Group.
27. I mentioned earlier the role that the FCA and PRA play. Both of them have been involved in the Scheme in detail, and have been involved in the process as the Scheme has developed. The PRA must approve, as it has done, the appointment of the Independent Expert and the form of his report, and must approve in consultation with the FCA the form of notice placed in newspapers.

It also has an important function where the transferee is a UK authorised person, and must be satisfied that the transferee has adequate resources. It is also given a statutory right to appear. Typically it does so (as in this case) by reporting in writing to the Court. Two reports have been produced by each of the FCA and PRA, the first concerned the directions hearing where the Court assesses the communications plan and grants waivers of giving notification directly to all policyholders. The second report is for this hearing where the Regulators inform the Court of their views, and draw the attention of the Court to any issues. They also consider, as they have done here, all the objections raised by the policyholders and provide a reasoned response. Both the FCA and PRA have concluded that they have no objections to the Scheme in this case.

28. Of the approximate 719,000 policyholders, as of 16 November, communications have been received from just under 11,000 of them. Of these, sixteen (less than 0.2%) constituted objections of one form or another to the Scheme. Of those, I have heard today from three, who have exercised their right to come to Court to voice their objections. I will deal with them in turn.
29. Firstly, Mr McCarthy. Mr McCarthy has produced voluminous documentation relating to complaints as to Abbey Life's conduct going back very many years, in the course of which he alleges fraud and criminal activity on the part of Abbey Life. He has pursued his complaints to the Financial Ombudsman Service, and numerous subject access requests have been made by him. I should point out that Abbey Life reject all allegations made by him.

His complaints are on-going. He does not ask me to adjudicate on them, nor could I do so. His essential point is the transfer should not be allowed to occur unless, and until, the Court can be satisfied that the failings of Abbey Life, according to him, will not be repeated by Phoenix. He says that there must be safeguards so that people will not be swallowed up by a big company that will treat them badly as he has been. He says that Abbey Life has done so for the last 20 years, and Phoenix are continuing to do it insofar as he has had dealings with them more recently.

30. The question I have to decide on this application is whether the Scheme will have an adverse effect on the interests of any group of policyholders. So far as that question is concerned, in my judgment the answer to Mr McCarthy's complaints is that the Scheme will have no impact on either the quality of service provided by those administering his policies, or his rights to complain or to pursue complaints via the Financial Ombudsman Service. The administration of the policy will go on as before by the same people; the Scheme, therefore, will not cause or lead to any change in the quality of service provision. He also objects that Phoenix policyholders should have been contacted directly so that they could give evidence of their problems with Phoenix. The applicants, however, were (as is not unusual in cases of this sort) granted a waiver from contacting those 3.5 million policyholders directly since they are, as I have already held, wholly unaffected by the Scheme. In any event, that question was raised and resolved at the directions hearing. I do not regard the fact that Phoenix policyholders were not contacted as a reason for refusing to sanction the Scheme.

31. Finally he points out that he was mistakenly classed as a gone-away policyholder by Abbey Life in the past. He is concerned that the provision in the Scheme which would share out the profit element of a fund due to a gone-away, with-profits policyholders, among other with-profits policyholders, as a special bonus, could work unfairly if Abbey Life made similar mistakes with others. The short answer to this, however, is that if a gone-away policyholder subsequently turns up, then Phoenix itself will be liable to pay the relevant amount to them. The special bonus provisions will, therefore, not adversely affect the interests of gone-away policyholders at all.
32. The second person to attend today is Mr Ritchie. He has submitted, albeit very late in the day, evidence and submissions. His core concern is that there is a breach of a general data protection regulation ('GDPR'), because of a change in data controller from Abbey Life to Phoenix without each policyholder's consent. He suggests that this gives rise to potential damages claims. Even assuming a nominal damage to policyholders, this would run to tens of millions of pounds. The change in data controller is specifically dealt with by clause 3.4 of the Scheme. This provides, in summary, that on or with effect from the transfer date, Phoenix shall succeed to all rights, liabilities and obligations of Abbey Life in respect of any personal data which relates to the transferring business and which is subject to GDPR. This is a standard and essential provision. Without it the transfer would have no practical effect. It clearly falls within Section 112(1)(b) of the Financial Services and Markets Act.



33. The short answer to Mr Ritchie’s point is that the specific consent of each policyholder is unnecessary given that the Financial Services and Markets Act specifically provides for any consent of clients to be overridden on transfer. It does this via Sections 112(2) and (2)(a). Subsection 112(2) reads:

“An order under subsection (1)(a) may—

(a)transfer property or liabilities whether or not [the transferor concerned] otherwise has the capacity to effect the transfer in question.”

Subsection 2(a) then reads:

“Subsection (2)(a) is to be taken to include power to make provision in an order—

(a)for the transfer of property or liabilities which would not otherwise be capable of being transferred or assigned;

(b)for a transfer of property or liabilities to take effect as if there were—

(i)no such requirement to obtain a person's consent or concurrence, and

(ii)no such contravention, liability or interference with any interest or right,

as there would otherwise be (in the case of a transfer apart from this section) by reason of any provision falling within subsection (2B).”

Subsection (2B) reads:

“A provision falls within this subsection to the extent that it has effect (whether under an enactment or agreement or otherwise) in relation to the terms on which the transferor concerned is entitled to the property or subject to the liabilities in question.”

34. Mr Ritchie’s response was to suggest that as Section 112 was enacted prior to GDPR, I should - when exercising what he emphasises is a broad discretion under Section 111 - take into account the fact that data protection rights of policyholders are being overridden, and be careful before allowing this to

happen. Section 112 is, however, a clear and straightforward provision which is essential for any transfer scheme to work. While the GDPR was itself not in existence in 2000, the concept of personal rights in relation to information was, and the possibility of overriding such rights must have been in contemplation of the drafter of Section 112. There is no special feature of this Scheme which makes the overriding of personal data rights any more significant than in any other insurance business transfer scheme. It is an inevitable feature of such schemes. This reinforces the conclusion that this factor should not deter me from approving the Scheme.

35. Mr Ritchie made a number of other points which are largely directed at issues of comity post-BREXIT, and the risk that Abbey Life is currently in breach of GDPR, or that Phoenix will be in breach. I should add that there is no evidence before the Court that Abbey Life is in fact in breach of GDPR. He pointed out in this context that the FCA's approval, or more accurately its non-objection to the Scheme, was qualified because it expects applicants and independent experts to have fully considered the impact of BREXIT. These points do not provide a reason for refusing to sanction the Scheme. The Scheme itself does not cause or constitute any such breaches. If breaches have occurred, or could do so in the future, then a policyholder's rights in respect of such breaches are not affected by the Scheme.

36. Finally, I heard from Ms Etsibah. Her objection is based on the fact that she is unable to opt out of the Scheme. Having taken out a policy with Abbey Life some time ago, she soon afterwards wished she had not done so and wanted to transfer her fund out, but that was not permitted by the terms of policy. She is

also dissatisfied with the fact that Abbey Life refused to remove her former husband's name from the policy. She is dissatisfied with the handling by Abbey Life of previous complaints, and indeed has an on-going complaint. I make it clear that I am not in a position to say anything about the substance of Ms Etsibah's rights against Abbey Life in respect of either of the matters of which she complains.

37. Whilst I understand her concerns, they are not in my judgment grounds for refusing to sanction the Scheme. First, it is a fact of life in relation to most Part 7 transfer schemes that they apply across the board. In this case there is the additional point that the purpose of the Scheme (corporate rationalisation) would not be achieved if some policyholders remained behind. There will be no Abbey Life company remaining in order to service policyholders. The inability to opt out is not a consequence of the Scheme. It is a consequence of the terms of the policy, which would not be changed by the Scheme.
38. Secondly, the Scheme will have no impact on the ability of customers of Abbey Life to complain, or on the handling of complaints. Phoenix will stand in Abbey Life's position in relation to any existing on-going complaints, and the regulation by the FCA, the rights against the FFCS and the Financial Ombudsman Service will continue unchanged. I do not regard the fact (if it is the case) that Abbey Life dealt unsatisfactorily with her past complaints as being a relevant consideration in deciding whether to approve the Scheme. Nothing I do can either alter past conduct or have an impact on the future performance of complaints handling.

39. A number of other people objected in writing but did not appear before the Court. For example, a Mr Kirby expressed concern relating to the solvency of Phoenix. Having given careful consideration to the Expert's report and his conclusion on the solvency provision of Phoenix, and for reasons I have already given, I have concluded that the reduction in FCR cover is not something that has a materially adverse impact on policyholders. He also expressed concern that he was given no say in the transfer of Abbey Life to the Phoenix Group two years ago. As for that, the sale of Abbey Life shares had no impact on the rights of policyholders, and there was no reason why he, or any other policyholder, should have been asked about that.
40. The remainder of the complaints have been conveniently categorised in the annex to the second report of the FCA and the PRA. They fall into the following categories: first, transferring policyholders were concerned that changes to their with-profits policy would result in an adverse impact on their benefits; second, transferring policyholders believed the company had no legal right to change the terms and conditions of their with-profits policies without their agreement; third, transferring policyholders would like to remain with Abbey Life or take a refund from the commencement date with interest; fourth, transferring policyholders have been concerned about the financial state of Phoenix; fifth, transferring policyholders have been concerned that there is no consideration given to the impact of the Scheme on the policyholders; sixth, transferring policyholders were concerned regarding Phoenix; seventh, transferring policyholders were concerned about on-going or settled complaints; and, eighth, transferring policyholders were concerned that policyholders at Phoenix had not been sent a policyholder's pack.

41. I have dealt with most of those issues separately already, and insofar as I have not, I am satisfied that they have been properly considered by the Independent Expert, the FCA and the PRA, and that aside from that, none of them provides a sufficient reason not to sanction this Scheme.
42. There are a number of technical matters that the Court needs to be satisfied of on an application such as this. These relate to notifications of policyholders and re-insurers, ensuring that the Independent Expert's report and summary is available to interested persons, ensuring that the transferee companies have the necessary authorisation to carry on business transferred to them, and ensuring that appropriate certificates under Schedule 12 of the Financial Services and Markets Act 2000 have been obtained. The evidence in support of this application establishes to my satisfaction that these requirements have all been met.
43. For those reasons I am prepared to sanction this Scheme and I will do so. There are a number of incidental provisions in the Scheme which will be the subject of an order under Section 112(1)(d). These relate (apart from the modifications to with-profits policies which I have addressed separately above) to uncontentious matters and I am prepared to make that order as well.

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